

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS,

No. C 08-2397 WDB

Plaintiff.

ORDER FOLLOWING INITIAL CASE  
MANAGEMENT CONFERENCE

v.

TD AMERITRADE, INC.,

Defendants.

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On August 13, 2008, the parties appeared for an Initial Case Management Conference. On the record during the Conference, the parties indicated that they likely would be amenable to attempting to resolve this action through mediation. However, Defendant's counsel indicated that she would like to discuss this matter in greater detail with her client before committing to go forward with mediation. Accordingly, **by no later than August 27, 2008**, counsel for Defendant must send to Plaintiff's counsel, with a copy to the undersigned, a letter explaining whether Defendant would be amenable to attempting to resolve the case through mediation with an informal exchange of information beforehand or, instead, would prefer to proceed in a more traditional, formal manner. If Defendant chooses to proceed in a more formal manner, the undersigned will schedule a further Case Management Conference to plan for formal discovery and to set a trial date.

In the alternative, if the Defendant indicates that it would like to proceed more informally toward mediation, the Court will defer setting a trial date until after the parties have had an opportunity to attend a private mediation — to occur at the latest in November, 2008. The Court encouraged the parties to use the time leading up to the mediation to

1 disclose material information and documents to one another, and to undertake any surgical  
2 discovery that is necessary to have a productive mediation.

3 If the parties choose to mediate the case, but are not able to resolve the case through  
4 mediation, they must appear before the undersigned on **Wednesday, December 10, 2008,**  
5 **at 1:30 p.m.,** for a further case management conference during which the Court will set a  
6 trial date. Counsel may appear by telephone for the conference by notifying the  
7 undersigned's administrative law clerk at least two days before the hearing at (510) 637-3324.  
8 If counsel for both parties choose to appear by phone, Plaintiff's counsel will be responsible  
9 for getting Defendant's counsel on the line and calling the Court at (510) 637-3909. **By no**  
10 **later than Monday, December 8, 2008, at noon,** the parties must file a Further Joint Case  
11 Management Statement that describes what has taken place since the initial Case  
12 Management Conference and suggests a specific case development plan and schedule. The  
13 parties must not include in this Statement any information about the substance of their  
14 settlement negotiations.

15 If the matter settles before December 10, 2008, the parties must promptly prepare and  
16 file dismissal papers and notify the Court by calling (510) 637-3324.

17 IT IS SO ORDERED.

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19 Dated: August 14, 2008

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WAYNE D. BRAZIL  
United States Magistrate Judge